

In the Supreme Court of the State of Alaska

Roy Anderson,

Appellant,

v.

Tauni Duncan,

Appellee.

Supreme Court No. **S-17255**

Order Rejecting Reply Brief

Date of Order: **2/12/2020**

Trial Court Case No. **1JU-10-00753CI**

Appellant's reply brief, filed on **1/24/2020**, is **rejected** for the following reasons specified by the law clerk who reviewed the brief for technical compliance with Appellate Rules 210 and 212. Please see attached law clerk comments.

The original and one copy of the corrected brief with proof of service, is due on or before **2/24/2020**.

Entered under Appellate Rule 102(f).

Clerk of the Appellate Courts

Sarah Anderson, Deputy Clerk

Distribution:

Mail:

McKeen, Mary Alice

Lessmeier, Michael L

Lindemuth, Jahna M.

Gottstein, Samuel Gekler

There are many factual and legal assertions that are not supported by the appropriate citation to the record or legal authority. I recommend rejecting this brief so that these issues may be corrected. Specific issues I have identified with the reply brief are:

There are multiple factual assertions in the “Overview” (page 1) of the reply brief that require a citation to the record where that assertion is supported.

The legal contention at the bottom of page 2 that a formal termination of parental rights is a final, appealable order should be supported by a citation to the appropriate legal authority.

Mr. Anderson makes a number of factual assertions at the bottom of page 2 and top of page 3 as to how long the litigation has been going on that should have supporting citations to the record.

The legal contention on page 3 that collateral estoppel involves, by definition, a prior ruling that is not appealed should be supported by a citation to the appropriate legal authority.

Mr. Anderson points the reader on page 3 to the appellant’s opening brief for legal support regarding the elements of collateral estoppel. Ideally, the reply brief should include this legal authority directly in the reply brief.

The contention on page 5 that there were no children involved, no custody provisions, and no benchmarks in Mitchell needs a citation to the case where this contention is supported.

The contention on page 5 that Mr. Anderson provided the superior court with analysis, evidence, and expertise needs an appropriate citation to the record.

The citation at the bottom of page 7 that Mr. Anderson rented a place and was only at home intermittently should have a direct citation to the record where this assertion is supported rather than pointing the reader to the Mr. Anderson’s opening brief.

The legal contention that to apply collateral estoppel, the superior court must make a fairness determination on page 8 needs a citation to the appropriate legal authority.

The factual assertion that the superior court indicated that materials should have been offered earlier on page 8 requires an appropriate citation to the record.

The factual assertion on page 10 as to what the JPD material includes points the

reader to Mr. Anderson's opening brief. Mr. Anderson should instead support this assertion by citing to the record directly for support.

The factual assertions as to what constitutes de facto termination of Mr.

Anderson's parental rights on page 12 need appropriate citations to the record.

The first sentence in section VI of the reply brief on page 14 needs a citation to the Ms. Duncan's brief where she makes this argument.

The first two sentences in the second paragraph of section VI on page 14 contain assertions about the superior court's rulings. Both of these sentences need appropriate citation to the record where the superior court makes the alleged statements.

There are assertions at the top of page 15 require appropriate record support.

The assertion that superior courts are vested with wide discretion in custody cases at the bottom of page 15 requires a citation to the appropriate legal authority.

The factual assertion on page 16 that the superior court denied Mr. Anderson's third motion requires an appropriate citation to the record.

The assertion in the last paragraph of page 17 that discusses the "near impossible" requirements that the court placed on Mr. Anderson requires a citation to the record.

The assertion on page 17 that states how much Mr. Anderson has paid in legal fees needs a citation to the record, not Mr. Anderson's opening brief.